From: Rural Opportunities, Inc., Lee Beaulac
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Comments:

@@@Comments on CRA Regulations (Docket #R-1181)

April 6, 2004

Dear Officials of Federal Bank and Thrift Agencies:

I am writing on behalf of Rural Opportunities, Inc. to voice our opposition over several elements of the proposed changes to the regulations governing the Community Reinvestment Act (CRA). Rural Opportunities, Inc. (ROI) appreciates the opportunity to provide feedback regarding CRA.

While we agree with the agencies' stated goal of updating CRA regulations to keep pace with changes in the financial services industry, we believe that such an update should be aimed at strengthening and broadening the reach of CRA as opposed to retracting it as is reflected in the proposed rule. We appreciate this opportunity to comment on the proposed rule and to share with you how ROI has effectively used CRA to cultivate relationships with financial institutions and ensure that a full range of financial services and products are available to residents of the low and moderate income communities we work in.

Rural Opportunities, Inc. (ROI) was founded in 1969 in response to the critical needs of farm workers and other rural poor. The purpose of ROI is to create opportunities for the families and individuals we serve that will enable them to confront and overcome barriers that prevent access to economic, educational, social and political resources. ROI advocates for the empowerment of low-income individuals and families and promotes responsible development of the communities in which they live. With guidance from low-income individuals and communities, ROI develops and operates programs that create positive change for those it serves.

Rural Opportunities, Inc. has helped thousands of families take the first steps away from homelessness, farm labor camps, overcrowded and substandard housing, unemployment, and extreme poverty. It leads them to safe, affordable rental housing, adequate incomes and, in many cases, full time employment and home ownership.

ROI provides services to over 20,000 people annually. Since its inception, ROI has strengthened communities through a myriad of rural development and service activities. ROI's Housing and Economic Development Division fosters partnerships between municipalities, private and public funders, community groups, non-profits, for-profit developers, and service organizations to develop affordable housing and small business assistance programs across New York, New Jersey, Pennsylvania, Ohio, Michigan, Indiana and Puerto Rico.

CRA has been vital to the work of ROI. CRA not only provides an incentive for financial institutions to develop a relationship with ROI and other community based organizations, but it is also a critical force in maintaining these relationships and in keeping banks committed to providing services and products to residents in low and moderate income communities.

THE IMPORTANCE OF CRA TO ROI

CRA opens the door for productive and responsive relationships between community-based organizations, like ROI, and the banking industry. These relationships have helped to yield outstanding results in communities served by ROI. Since 1980, ROI has developed, improved and preserved of over 6,200 affordable housing units. Since 1992, over 1,800 low and moderate income families have purchased their first home through ROI's Homeownership Assistance Program. Over half of these families are single parent, female-headed households with children. ROI's Enterprise Center has also made over 250 small business loans, bringing critically needed startup and business expansion capital into underserved areas. These impacts could not have been achieved without the participation of bank partners.

Spurred by CRA requirements, lenders frequently work with ROI capitalize existing loan pools or create new products designed specifically to target an underserved market niche. For example, a number of lenders have joined ROI's Affordable Lending Alliance which brings together lenders, mortgage insurers, and local home buyer education programs to expand homeownership into underserved markets. This partnership met a clear community need and, if not for CRA, it is unlikely that the participating banks would have collaborated with ROI to forge this partnership.

Not only has CRA spurred lenders to provide more appropriate products, it has also encouraged lenders to become more involved in community education efforts. In Rochester and other areas throughout ROI's service area, lenders provide support to ROI's homebuyer education.

PREDATORY LENDING

While we applaud the agencies desire to develop CRA standards designed to curtail abusive lending practices, we are concerned that the proposed rule as drafted will not have the effect of actually preventing the practices we see perpetuated by predatory lenders in our neighborhoods.

If abusive lending practices are allowed to continue, community-based organizations, like ROI, will continue to act as the safety-net for victims of predatory lending and with increasing frequency, ROI and other community based organizations will need to spend more time addressing the emergencies created by abusive lenders.

ROI sees first hand the destructive force of predatory lenders on low income communities. The abusive and misleading lending practices of predatory lenders have worked to reverse the progress made by community based organizations across the country. As ROI is working to encourage homeownership, and help low income people build assets, predatory lenders are working to strip these homeowners of their equity and promoting financial products that erode individual's assets.

Differentiating predatory lending from responsible subprime lending must be done carefully. ROI is committed to working with low- and moderate-income individuals who, for a variety of reasons, including poor or non-existing credit histories or unstable employment background, are unable to secure conventional mortgage financing. As a member of the NeighborWorks® network, ROI provides these consumers with a range of financial services and products to enable them to become homeowners or rehabilitate their homes. These homeowners may otherwise be forced to a predatory product. We do this both as direct lenders as well as by working with conventional lenders.

Responsible subprime lending entails working with a consumer to come up with a loan product at a price and with terms that appropriately compensate the lender for risk, inclusion of reasonable return for the lender, and understandable by and appropriate for the borrower.

We believe that the proposed rules must go further to ensure that responsible lending is encouraged while at the same time putting an end to the practices that are clearly abusive and not developed with the well being of the consumer in mind such as charging of excessive fees, loan flipping, pre-payment penalties and other abusive lending practices.

We encourage the agencies to change the proposed predatory lending standard. The proposed rule specifies that predatory lending will be indicated by way of foreclosed value of the collateral, instead of the ability of the borrower to repay. While this does address the most destructive form of predatory lending – those ending in foreclosure – it does not adequately cover all cases of predatory lending.

We believe that all lender affiliates should be subject to CRA evaluation. Affiliates can erode investments made by its parent company. While the parent company meets its CRA obligation, an affiliate can erase those gains with abusive lending practices, resulting in a zero-sum game. This alternative financing system cancels out CRA's goal – that of meeting lower income communities' credit needs. We encourage the agencies to include all affiliates loans when evaluated the CRA performance.

SMALL INSTITUTIONS

We oppose changing CRA regulations to allow banks with between $250 and $500 million to opt out of the investments and services test that is currently required of all banks with $250 million or more in assets.

We believe that changing the definition of small institutions will decrease bank investments and services currently available in low- and moderate-income communities and will have a particularly negative impact on rural communities that are particularly reliant on the activity of smaller financial institutions. As reported in Harvard's Joint Center for Housing Studies report The 25th Anniversary of the Community Reinvestment Act: Access to Capital in an Evolving Financial Services System, "rural communities are served by smaller banks that are not subject to the same degree to CRA scrutiny as larger banks and from the absence of well-developed networks of community-based advocacy organizations in many rural areas."

Rural Opportunities, Inc. has experience that confirms this observation. Forty-six lenders in New York (21% of all the lenders in the state), have assets between $250 and $500 million. They hold approximately $15.9 billion in assets and they have 244 branches statewide. These banks also hold about $11.4 billion in deposits. In the rural areas of New York, 9 lenders, or more than 20% of the lenders in these areas, would be affected by the changes. They hold over $3.16 billion in assets, have 184 branches, and hold almost $9.4 billion in deposits.

Allowing these lenders to opt out of the investment and services tests will have a negative impact on investment in low income rural communities. Access to mortgage products and other retail banking services will be undermined in the rural areas of the Rural Opportunities service area.

With the elimination of the investments test, fewer lenders would be have the CRA incentive to invest in Low Income Housing Tax Credits which has been a critical source of affordable rental housing and an important tool used by NWOs in our network. In addition, elimination of the services test would likely result in decreased bank activity in housing counseling or Individual Development Account (IDA) programs.

ENHANCED DATA DISCLOSURE

ROI applauds the move toward enhanced data disclosure on small business lending, but urges that the proposed rule needs to go further to ensure this data is actually put to good use in the CRA examination process.

The federal agencies propose that they will publicly report the specific census tract location of small businesses receiving loans in addition to the current items in the CRA small business data for each depository institution. This will improve the ability of the general public to determine if banks are serving traditionally neglected neighborhoods with small business loans. Also the regulators propose separately reporting purchases from loan originations on CRA exams and separately reporting high cost lending (per the new HMDA data requirement starting with the 2004 data).

The positive aspects of the proposed data enhancements do not begin to make up for the significant harm caused by the other proposals. Furthermore, the federal agencies are not utilizing the data enhancements in order to make CRA exams more rigorous. The agencies must not merely report the new data on CRA exams, but must use the data to provide less weight on CRA exams to high cost loans than prime loans and assign less weight for purchases than loan originations.

Rural Opportunities, Inc. is the only SBA micro loan intermediary serving rural portions of upstate New York. Access to capital for small business start up and expansion is a serious issue in both rural and urban areas and, if fully implemented, the enhanced data disclosure provisions of the proposed rule can be a powerful tool to increase access to capital in underserved markets.

Low income communities need access to a full range of financial services and products and small institutions play a key role in providing these services to rural communities. We encourage the agencies to retain the original definition of small institution.

We appreciate your attention to our concerns.

Sincerely,

Lee Beaulac

Senior Vice President for Housing & Economic Development

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